

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

REGINAL L HOLSTON,

Plaintiff,

v.

Case No: 2:21-cv-202-SPC-NPM

JACOB J. DAWSON, DEREK  
SNIDER, ANNE OTWELL,  
MARK HARRISS and RYAN  
ENGLISH,

Defendants.

/

**OPINION AND ORDER**<sup>1</sup>

Before the Court is Plaintiff Reginal L. Holston's Omnibus Motion for Reconsideration; Motion for Extension of Time; and Motion to Direct Clerk to Provide Form ([Doc. 30](#)). Defendants have not opposed the Motion.

Holston—a prisoner of the Florida Department of Correction—filed his original complaint in Florida state court, asserting an array of claims that arose during his incarceration. Defendants removed the case to this Court, and Holston filed an Amended Complaint. The Court dismissed the Amended Complaint without prejudice because it asserted unrelated claims against

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

multiple defendants that were not part of the same transaction or occurrence. The Court also granted Holston leave to file a second amended complaint, denied Holston's Motion for Remand without prejudice, and invited Holston to move to remand his second amended complaint if appropriate. Holston asks the Court to sever and remand his state claims against Snider to avoid the need to file a new case in state court.

When a defendant removes an action that includes claims arising under federal law (the federal claims) and claims not within the district court's original or supplemental jurisdiction (the state claims), the district court must sever and remand the state claims. [28 U.S.C. § 1441\(c\)](#). Even if the district court could exercise supplemental jurisdiction over the state claims, it has discretion to sever and remand them. *See Boone v. JP Morgan Chase Bank*, [447 F. App'x 961, 963 \(11th Cir. 2011\)](#).

Holston asks the Court to sever and remand four counts against Defendant Derek Snider: trover (Count 11), civil theft (Count 12), negligent supervision (Count 13), and "civil RICO" (Count 18). ([Doc. 15](#)). Defendants did not oppose severance and remand when Holston filed his Motion for Remand or his Motion for Reconsideration.

Counts 11-13 arise from Snider's alleged refusal to provide coffee to Holston. They are not so related to any of Holston's federal claims so as to form part of the same case or controversy, so the Court does not have supplemental

jurisdiction over them. See [28 U.S.C. § 1367\(a\)](#). What is more, judicial economy, convenience, and fairness favor remand over dismissal. The Court will thus sever and remand Counts 11-13. The Court will not remand Count 18, on the other hand, because its broad factual underpinnings overlap with some of Holston's federal claims.

Severance and remand of Counts 11-13 does not resolve the problem identified in the Court's May 7, 2021 Order—Holston's Amended Complaint still contains unrelated claims against multiple defendants. To pursue any claims in this Court, Holston must file a second amended complaint that is limited to one set of related claims. The Court will extend the deadline it set in the prior order and will direct the Clerk to send Holston a blank civil rights complaint form. Holston's Motion is denied in all other respects.

Accordingly, it is now

**ORDERED:**

Plaintiff Reginal L. Holston's Omnibus Motion for Reconsideration; Motion for Extension of Time; and Motion to Direct Clerk to Provide Form ([Doc. 30](#)) is **GRANTED in part and DENIED in part**.

(1) Counts 11-13 of the Holston's Amended Complaint are reinstated, severed, and remanded to the Twentieth Judicial Circuit Court in and for Charlotte County, Florida.

(2) Holston may file a second amended complaint on or before July 13, 2021.

(3) The Clerk is **DIRECTED** to mail Holston a civil rights complaint form marked with the title "Second Amended" and the above-captioned case number.

**DONE** and **ORDERED** in Fort Myers, Florida on June 22, 2021.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record

The Clerk of the Twentieth Judicial Circuit Court in and for  
Charlotte County, Florida